

In the Matter of Merchant Mariner's Document No. Z-447091-D1  
Issued to: THADDEUS SHAVERS

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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THADDEUS SHAVERS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 6 January, 1954, and Examiner of the United States Coast Guard at New York, revoked Merchant Mariner's Document No. Z-447091-D1 issued to Thaddeus Shavers upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as crew messman on board the American SS VANDERBILT VICTORY under authority of the document above described, on or about 23 May, 1953, while said vessel was at Pusan, Korea, he wrongfully had a quantity of marijuana in his possession.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his rights to be represented by counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer and Appellant made their opening statements. Appellant admitted having physical possession of the marijuana but stated he did not know at the time that the substance was marijuana. Since this statement was inconsistent with the plea of "guilty," the Examiner changed the plea to "not guilty" on behalf of Appellant.

The Investigating Officer introduced in evidence a certified copy of the General Court-Martial Order and Record of Trial by which Appellant was found guilty of wrongfully possession of marijuana on 23 May, 1953.

In defense, Appellant offered in evidence the testimony of a shipmate as well as testifying in his own behalf. Appellant stated that the marijuana was given to him by a crippled child to whom Appellant had given some money; but that Appellant did not know that the substance was marijuana.

At the conclusion of the hearing, having heard the argument of the Investigating Officer and given both parties and opportunity to submit proposed findings and conclusions, the Examiner announced

his findings and concluded that the charge had been proved by proof of the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-44709-D1 and all other licenses, certificates, endorsements and documents issued to this Appellant.

From that order, this appeal has been taken, and it is urged that Appellant has paid his debt to society by being confined to jail and paying a fine for this offense. Appellant claims that the revocation of his document is tantamount to punishing him twice for the same offense although even in the courts many persons have been placed on probation when they have been found guilty of only one act of misconduct. Appellant submits for consideration the fact that he has been in the Merchant Marine Service since 1944 during which time he has never been guilty of any type of misconduct. He also points out that he is married and has two young children to support and the order of revocation has caused great financial hardship to his three dependents. Appellant states that if he is placed on the strictest probation, his conduct will not be detrimental to the safety, good order or discipline of the Merchant Marine Service.

Based upon my examination of the record submitted, I hereby make the following

#### FINDINGS OF FACT

On 23 May, 1953, Appellant was serving as crew messman on board the American SS VANDERBILT VICTORY and acting under authority of his Merchant Mariner's Document No. Z-447091-D1 while the ship was at Pusan, Korea.

On this date, Appellant went ashore and knowingly obtained possession of a small quantity of marijuana which was loosely wrapped in a piece of newspaper. The marijuana was in the form of a greenish plant substance. Appellant placed the package of marijuana in one of his trouser pockets. Later on the same day while Appellant was at a house suspected of being frequented by users of narcotics, the marijuana was found on Appellant's person when he was searched by two U. S. Army C.I.D. agents.

On 6 July, 1953, Appellant, represented by counsel, was tried by a General Court-Martial at Pusan and convicted of wrongful possession of marijuana on 23 May, 1953. Appellant received a sentence of six months confinement at hard labor and a fine of \$500. On 13 August, 1953, the sentence was modified to the extent that the confinement at hard labor would terminate when the \$500 fine was paid. The record does not disclose when the fine was paid.

#### OPINION

This appeal is substantially a plea for clemency which cannot be entertained because of the serious nature of the offense and the constant policy of the Coast Guard to remove seamen from ships of the U. S. Merchant Marine when they have been found guilty of any offense involving marijuana or other narcotics. This action is considered to be mandatory, despite the personal hardship which often results, in order to fulfill the statutory duty of the Coast Guard to promote the "safety of life and property on the high seas." 14 U.S.C. 2.

This administrative action is not a second penal punishment for the same offense as was punished by the sentence of the General Court-Martial; but rather, it is a remedial proceeding primarily to protect other shipboard personnel against a seaman who has been found guilty of the offense of wrongful possession of narcotics. Therefore, the order of revocation will be sustained regardless of Appellant's prior clear record.

ORDER

The order of the Examiner dated at New York, New York, on 6 January, 1954, is ~~REVERSED~~ **AFFIRMED**.

A. C. Richmond  
Rear Admiral, United States Coast Guard  
Acting Commandant

Dated at Washington, D.C., this 26th day of May, 1954.